

Judge McMahon**13 CV 9001**

1 UNITED STATES DISTRICT COURT
 2 SOUTHERN DISTRICT OF NEW YORK

3 BRYAN C. KELLER,

4 Plaintiff,

5 v.

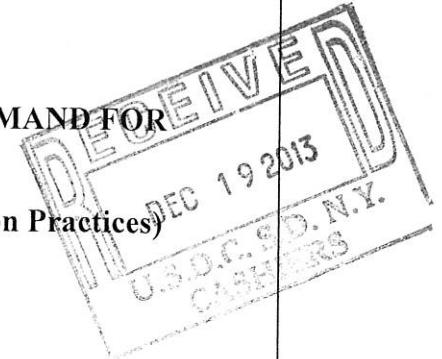
6 ALLIED INTERSTATE, LLC f/k/a ALLIED
 7 INTERSTATE, INC.,

8 Defendant.

) Case No.:

) COMPLAINT AND DEMAND FOR
 JURY TRIAL

) (Unlawful Debt Collection Practices)



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COMPLAINT

10 BRYAN C. KELLER ("Plaintiff"), by his attorneys, KIMMEL & SILVERMAN, P.C.,
 11 alleges the following against ALLIED INTERSTATE, LLC f/k/a ALLIED INTERSTATE, INC.
 12 ("Defendant"):

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INTRODUCTION

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 15 1. This is an action for damages brought by an individual consumer for Defendant's
 16 violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter
 17 "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair
 18 practices.

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JURISDICTION AND VENUE

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 22 2. Jurisdiction of this Court arises under 15 U.S.C. §1692k(d) and 28 U.S.C.
 23 §1331.

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 25 3. Defendant conducts business and maintains its headquarters in the State of New
 York, therefore personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. §1391(b)(2).

PARTIES

5. Plaintiff is a natural person, who resides in Otis Orchards, Washington.

6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).

7. Defendant is a debt collection company, which maintains its headquarters at 335

Madison Ave., 27th Floor, New York NY 10017.

8. At all relevant times, Defendant acted as a “debt collector” within the meaning of

15 U.S.C. § 1692(a)(6), and attempted to collect a “debt” as defined by 15 U.S.C. §1692(a)(5).

9. Defendant acted through their agents, employees, officers, members, directors,

heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers

FACTUAL ALLEGATIONS

10. At all relevant times, Defendant attempted to collect an alleged consumer debt from Plaintiff, related to a student loan.

11. Upon information and belief, the alleged debt arose out of transactions that were for personal, family or household purposes.

12. Further, as Plaintiff has no business debt, the debt sought by Defendant could have only been personal in nature.

13. Throughout July 2013, Defendant's collectors, including "Elisa Sloan," placed repeated harassing telephone calls to Plaintiff and her husband at their residence.

14. On at least one occasion, July 31, 2013, Defendant called Plaintiff four times in

15. Defendant's collectors are seeking a debtor named "Brian Keller", who spells his name differently, and who Defendant says attended Portland State University ("PSU").

16. Plaintiff, "Bryan Keller" attended Linfield University, paid off his student loans in 1993, and has confirmation of payment from US Bank and the Department of Education.

17. Plaintiff did attend graduate school at PSU, but did not do so through use of any student loan.

18. Plaintiff has fully advised Defendant's collectors they are calling for the wrong person and he has no student loan debt, but they failed to listen and continued to call anyway.

19. Once told of the above facts, there was no lawful purpose for calling Plaintiff.

20. Upon information and belief, Defendant did not investigate or verify the information Plaintiff provided about being a different person, and spelling his name different from the debtor Defendant sought.

21. Defendant did not continue to collect in error, rather it continued to collect in direct and intentional disregard of the facts Plaintiff provided.

22. Defendant's actions as described herein were taken with the intent to harass, upset and coerce payment from Plaintiff, as there could not have been any other purpose for its actions.

COUNT I
**DEFENDANT VIOLATED §§ 1692d AND 1692d(5) OF THE
FAIR DEBT COLLECTION PRACTICES ACT**

23. Section 1692d of the FDCPA prohibits debt collectors from engaging in harassing, oppressive, or abusive conduct in their attempts to collect an alleged consumer debt.

24. Section 1692d(5) of the FDCPA specifically enumerates repeatedly causing a telephone to ring with intent to annoy, abuse, or harass as a violation

25. Defendant violated sections 1692d and 1692d(5) of the FDCPA when it repeatedly and continuously placed telephone calls to Plaintiff's work and cellular telephone with the intent to annoy, harass or abuse Plaintiff in connection with the collection a debt owed by a third party, and when it engaged in other harassing conduct.

COUNT II
**DEFENDANT VIOLATED §§ 1692e, 1692e(2)(A) and 1692e(10) OF THE
FAIR DEBT COLLECTION PRACTICES ACT**

26. Section 1692(e) of the FDCPA prohibits the use of false, deceptive or misleading representation or means in connection with the collection of any debt.

27. Section 1692(e) of the FDCPA prohibits the false representation of the character, amount, or legal status of any debt.

28. Section 1692e(10) of the FDCPA prohibits debt collectors from using any false, deceptive or misleading representation or means in connection with collection of any debt, particularly using such representation or means to obtain information concerning a consumer.

29. Defendant violated sections 1692(e), 1692e(2)(A), and 1692e(10) of the FDCPA when Defendant's collectors attempted to collect a debt from Plaintiff that he did not owe, and when it engaged in other false, deceptive or misleading practices.

COUNT III
DEFENDANT VIOLATED § 1692f OF THE
FAIR DEBT COLLECTION PRACTICES ACT

30. Section 1692f of the FDCPA prohibits debt collectors from using unfair or unconscionable means to collect or attempt to collect a debt.

31. Defendant violated § 1692f of the FDCPA when it placed repeated telephone calls

1 to Plaintiff, attempted to collect a debt from Plaintiff that he did not owe, and when it engaged in
2 other unfair and unconscionable practices.

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7 WHEREFORE, Plaintiff, BRYAN C. KELLER, respectfully prays for a judgment as
8 follows:

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10 a. All actual compensatory damages suffered pursuant to 15 U.S.C. §
11 1692k(a)(1);
12 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to
13 15 U.S.C. § 1692k(a)(2)(A);
14 c. All reasonable attorneys' fees, witness fees, court costs and other litigation
15 costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
16 d. Any other relief deemed appropriate by this Honorable Court.

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19 **DEMAND FOR JURY TRIAL**

20 PLEASE TAKE NOTICE that Plaintiff, BRYAN C. KELLER demands a jury trial in
21 this case.
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1 DATED: 12/16/13

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